

above a fair relative value as to other lands which had been sold in the immediate vicinity; or if the board were unable to purchase said land by agreement with any one or more of the respective owners at a reasonable price within sixty days after the passage of the act, it was authorized to “make application to the Supreme Court of the District of Columbia [now the United States District Court for the District of Columbia], at any general or special term thereof, by petition for the condemnation of such land not so purchased, and for the ascertainment of its value. Such petition shall contain a particular description of the property not so purchased, and selected for the purpose aforesaid, with the name of the owner or owners thereof and their residences, so far as the same may be ascertained, together with a plan of the land proposed to be taken; and thereupon the said court is authorized and required to cite all such owners and all other persons interested to appear in said court at a time to be fixed by such court, on reasonable notice, to answer the said petition; and if it shall appear to the court that there are any owners or other persons interested who are under disability the court shall give public notice of the time at which the said court will proceed with the matter of condemnation; and at such time if it shall appear that there are any persons under disability either who have appeared or who have not appeared, the court shall appoint guardians ad litem for each such persons, and the court shall thereupon proceed to appoint three capable and disinterested commissioners to appraise the value of the respective interests of all persons concerned in such lands, under such regulations as to notice and hearing as to the court shall seem meet. Such commissioners shall thereupon, after being duly sworn for the proper performance of their duties, examine the premises and hear the persons in interest who may appear before them, and return their appraisal of the value of the interests of all persons, respectively, in such land; and in case any of the persons entitled according to the judgment of the court are under disability, or can not be found, or neglect to receive payment, the money to be paid to any of them shall be deposited in the Treasury to their credit, unless there shall be some person lawfully authorized to receive the same under the direction of the court, and when such payments are so made, or the amounts belonging to persons to whom payment shall not be made are so deposited, the said lands shall be deemed to be condemned and taken by the United States for the public use.” These provisions were never executed and the appropriation therefor was suspended by act Mar. 3, 1891, ch. 542, 26 Stat. 989.

However, the provisions of section 3 of the act of Aug. 30, 1890, referred to and partly quoted above, with respect to condemnation proceeding, were rendered general and permanent by a provision of the end of that section which read as follows:

“And hereafter, in all cases of the taking of property in the District of Columbia for public use, whether herein, heretofore, or hereafter authorized, the foregoing provisions, as it respects the application by the proper officer to the supreme court of the District of Columbia [see above for change in name] and the proceedings therein shall be as in the foregoing provisions declared”. In view of this provision, section 3, reworded at the beginning thereof to incorporate it, was classified to former section 120 of this title. Former section 120 was superseded in effect by act Mar. 1, 1929, ch. 416, 45 Stat. 1415, which was formerly classified to section 361 et seq. of this title. See chapter 13 (§16-1301 et seq.) of Title 16, Particular Actions, Proceedings and Matters, of the District of Columbia Code.

#### CODIFICATION

Section is also set out in D.C. Code, §1-2009.

#### TRANSFER OF FUNCTIONS

“Commission”, as used in this section, refers to National Capital Planning Commission, rather than to

National Capital Park and Planning Commission, in view of transfer of functions, powers, etc., from latter to former by section 71h of this title.

#### DELEGATION OF FUNCTIONS

Authority of President under last sentence of this section to approve (i) designation of lands to be acquired by condemnation, (ii) contracts for purchase of lands, and (iii) agreements between National Capital Planning Commission and officials of States of Maryland and Virginia delegated to Director of Office of Management and Budget, see section 9(4) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 71, 71h, 72a, 74 of this title.

### § 72a. Acquisition of land by Commission subject to limited rights reserved to grantor; acquisition of limited permanent rights in land adjoining park property

The authority of the National Capital Planning Commission, established by section 71 of this title, is enlarged as follows:

Said Commission is authorized to acquire, for and in behalf of the United States of America, by gift, devise, purchase, or condemnation, in accordance with the provisions of sections 71 to 71i, 72, 73, and 74 of this title, (1) fee title to land subject to limited rights, but not for business purposes, reserved to the grantor: *Provided*, That such reservation of rights shall not continue beyond the life or lives of the grantor or grantors of the fee: *Provided further*, That in the opinion of said Commission the permanent public park purposes for which control over said land is needed are not essentially impaired by said reserved rights and that there is a substantial saving in cost by acquiring said land subject to said limited rights as compared with the cost of acquiring unencumbered title thereto; (2) permanent rights in land adjoining park property sufficient to prevent the use of said land in certain specified ways which would essentially impair the value of the park property for its purposes: *Provided*, That in the opinion of said Commission the protection and maintenance of the essential public values of said park can thus be secured more economically than by acquiring said land in fee or by other available means: *Provided further*, That all contracts for acquisition of land subject to such limited rights reserved to the grantor and for acquisition of such limited permanent rights in land shall be subject to the approval of the President of the United States. (Dec. 22, 1928, ch. 48, §1, 45 Stat. 1070; June 6, 1924, ch. 279, §9, as added July 19, 1952, ch. 949, §1, 66 Stat. 790.)

#### REFERENCES IN TEXT

Former provisions of section 71 of this title, referred to in text, established the National Capital Park and Planning Commission, to which such clause originally referred. For transfer of functions, powers, etc., of that Commission to the National Capital Planning Commission, see Transfer of Functions note set out below, and for creation of the latter Commission, see section 71a of this title.

#### CODIFICATION

Section is also set out in D.C. Code, §8-101.

## TRANSFER OF FUNCTIONS

In opening clause, “National Capital Planning Commission” substituted for “National Capital Park and Planning Commission”, on authority of act June 6, 1924, ch. 270, §9, as added July 19, 1952, which transferred functions of latter to former. See section 71h of this title and Transfer of Functions note thereunder.

## DELEGATION OF FUNCTIONS

Authority of President under this section to approve contracts for acquisition of land subject to limited rights reserved to grantor and for acquisition of limited permanent rights in land adjoining park property delegated to Director of Office of Management and Budget, see section 9(5) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

### § 72b. Lease of lands acquired for park, parkway, or playground purposes

The Administrator of General Services is authorized, subject to the approval of the National Capital Planning Commission, to lease, for a term not exceeding five years, and to renew such lease, subject to such approval, for an additional term not exceeding five years, pending need for their immediate use in other ways by the public, and on such terms as the Administrator shall determine, land or any existing building or structure on land acquired for park, parkway, or playground purposes.

(Dec. 22, 1928, ch. 48, §2, 45 Stat. 1070; Ex. Ord. No. 6166, §2, eff. June 10, 1933; Mar. 2, 1934, ch. 38, §1, 48 Stat. 389; 1939 Reorg. Plan No. 1, §303(b), eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1427; June 30, 1949, ch. 288, title I, §103(a), 63 Stat. 380; June 6, 1924, ch. 279, §9, as added July 19, 1952, ch. 949, §1, 66 Stat. 790.)

## CODIFICATION

Section is also set out in D.C. Code, §8-103.

## TRANSFER OF FUNCTIONS

“National Capital Planning Commission” substituted in text for “National Capital Park and Planning Commission”, on authority of act June 6, 1924, ch. 270, §9, as added July 19, 1952, which transferred functions of latter to former. See section 71h of this title and Transfer of Functions note thereunder.

“Administrator of General Services” substituted in text for “Director of Public Buildings and Public Parks of the National Capital”. See Transfer of Functions note set out under section 19 of this title.

### § 72c. Power to sell lands

The Mayor of the District of Columbia, with the approval of the National Capital Planning Commission, is authorized and empowered in his discretion, for the best interests of the District of Columbia, to sell and convey, in whole or in part, to the highest bidder at public or private sale, real estate now or hereafter owned in fee simple by the District of Columbia for municipal use, in the District of Columbia, which the Council of the District of Columbia and the National Capital Planning Commission find to be no longer required for public purposes.

(Aug. 5, 1939, ch. 449, §1, 53 Stat. 1211; June 6, 1924, ch. 279, §9, as added July 19, 1952, ch. 949, §1, 66 Stat. 790; 1967 Reorg. Plan No. 3, §§401, 402(192), eff. Nov. 3, 1967, 32 F.R. 11669, 81 Stat. 951; Dec. 24, 1973, Pub. L. 93-198, title IV, §§401, 421, 87 Stat. 785, 789.)

## CODIFICATION

Section is also set out in D.C. Code, §9-401.

## REPEALS

Section 7 of act Aug. 5, 1939, repealed all acts and parts of acts inconsistent or in conflict therewith.

## TRANSFER OF FUNCTIONS

“National Capital Planning Commission” substituted in text for “National Capital Park and Planning Commission”, on authority of act June 6, 1924, ch. 270, §9, as added July 19, 1952, which transferred functions of latter to former. See section 71h of this title and Transfer of Functions note thereunder.

Except as otherwise provided in Reorg. Plan No. 3 of 1967, functions of Board of Commissioners of District of Columbia transferred to Commissioner of District of Columbia by section 401 of Reorg. Plan No. 3 of 1967. Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by office of Mayor of District of Columbia by section 421 of Pub. L. 93-198, classified to section 1-241 of the District of Columbia Code. Accordingly, “Mayor” substituted in text for “commissioners”.

Function of Board of Commissioners to find that real estate is no longer required for a public purpose transferred to District of Columbia Council pursuant to section 402(192) of Reorg. Plan No. 3 of 1967.

“Council of the District of Columbia” substituted in text for “District of Columbia Council” pursuant to section 401 of Pub. L. 93-198. District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, classified to section 1-211 of the District of Columbia Code, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93-198, classified to section 1-221 of the District of Columbia Code.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 72e, 74b of this title.

### § 72d. Expenses of land sales

The Mayor of the District of Columbia is further authorized to pay the reasonable and necessary expenses of sale of each parcel of land sold, and shall deposit the net proceeds thereof in the Treasury of the United States to the credit of the District of Columbia.

(Aug. 5, 1939, ch. 449, §2, 53 Stat. 1211; 1967 Reorg. Plan No. 3, §401, eff. Nov. 3, 1967, 32 F.R. 11669, 81 Stat. 951; Dec. 24, 1973, Pub. L. 93-198, title IV, §421, 87 Stat. 789.)

## CODIFICATION

Section is also set out in D.C. Code, §9-402.

## REPEALS

Section 7 of act Aug. 5, 1939, repealed all acts and parts of acts inconsistent or in conflict therewith.

## TRANSFER OF FUNCTIONS

Except as otherwise provided in Reorg. Plan No. 3 of 1967, functions of Board of Commissioners of District of Columbia transferred to Commissioner of District of Columbia by section 401 of Reorg. Plan No. 3 of 1967. Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by office of Mayor of District of Columbia by section 421 of Pub. L. 93-198, classified to section 1-241 of the District of Columbia Code.